

1 Michael Eyerly, Esq. (SBN 178693)
2 eyerly@dbelegal.com
3 Stephen T. Blackburn, Esq. (SBN 232887)
4 blackburn@dbelegal.com
5 DEBLASE BROWN EYERLY LLP
6 10990 Wilshire Boulevard, Suite 1060
7 Los Angeles, CA 90024
8 Telephone: (310) 575-9955
9 Facsimile: (310) 575-9919

10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ROBERT MURPHY and SUSAN
14 MURPHY

15 Plaintiffs,

16 v.

17 3M COMPANY, et al.,
18 Defendants.

) Case No.: 2:12-cv-09368-DMG-SS

)
) Assigned to the Honorable George H.
) King

) **PLAINTIFFS' RESPONSE TO THIS**
) **COURT'S ORDER TO SHOW**
) **CAUSE AS TO WHY SEVEN**
) **DEFENDANTS SHOULD NOT BE**
) **DISMISSED WITHOUT**
) **PREJUDICE**

) [Filed concurrently with Proposed
) Order Dismissing Entire Action]

) Complaint File: March 14, 2012
) Trial Date: None

26 TO THE COURT, PARTIES AND THEIR ATTORNEYS OF RECORD:
27
28

1 COME NOW PLAINTIFFS ROBERT MURPHY AND SUSAN MURPHY
2 ("Plaintiffs") with their response to this Court's order to show cause in writing within
3
4 10 days of its (In Chambers) Order why defendants (1) 3M Company; (2) Buffalo
5 Pumps, Inc.; (3) CBS Corporation, f/k/a Viacom, Inc., successor by merger to CBS
6 Corporation f/k/a Westinghouse Electric Corporation; (4) Crane Co., individually and
7
8 as successor in interest to Chapman Valves; (5) Mechanical Drives & Belting, f/k/a
9 L.A. Rubber Company; (6) Soco West, Inc., f/k/a Brenntag West Inc., f/k/a Soco-
10 Lynch Corporation, f/k/a Soco-Western Chemical Corporation, f/k/a Stinnes-Western
11
12 Chemical Corporation; and (7) Spirax-Sarco, Ltd. Plaintiffs should not be dismissed
13 without prejudice for Plaintiffs' failure to diligently prosecute and failure to comply
14 with the Court's order.

15
16 Federal policy favors decisions on the merits. Most if not all of these
17 Defendants who purportedly failed to answer or appear in this matter were present for
18
19 Mr. Murphy's deposition which took place in March of 2013. With respect to these
20 defendants,,Plaintiffs can offer no explanation as to why those defendants have not
21
22 otherwise appeared in this action, save for those defendants who have settled with
23 Plaintiffs. Defendant Spirax-Sarco, Ltd. was previously provided with a dismissal on
24
25 October 19, 2012 when this matter was still in state court. *See* Declaration of Stephen
26
27 Blackburn ""Blackburn Decl.") at Ex. A. Defendant Crane Co. was provided with a
28
29 dismissal when this matter was still in state court on October 22, 2012. Blackburn
30
31 Decl. at Ex. B.

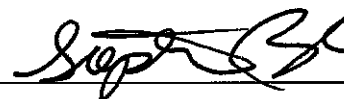
1 Since Mr. Murphy's deposition, however, Plaintiffs have decided to bring a joint
2 motion for stipulated dismissal without prejudice as to the entire action, a copy of
3 which has been circulated to defendants. Blackburn Decl. Ex. C. Plaintiffs presume
4 this stipulation will be agreeable and that this action will be dismissed without
5 prejudice in its entirety as soon as Plaintiffs receive all the necessary signatures from
6 the defendants in this matter. It is hoped this joint motion to dismiss the entire pending
7 action without prejudice makes this order to show cause moot, however, should the
8 Court require additional information, Plaintiffs will promptly provide any additional
9 information necessary.
10
11
12

13 And if this attempt at a joint dismissal fails, Plaintiffs will happily seek the non-
14 answering defendants' defaults.
15

16 DATED: April 22, 2013

DEBLASE BROWN EYERLY LLP

17
18
19 By



20 Stephen T. Blackburn
21 Attorneys for Plaintiffs
22
23
24
25
26
27
28

PROOF OF SERVICE

Murphy, et al. vs. BF GOODRICH CO., et al. (2:12-cv-09368-DMG-SSx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California, I am over the age of 18 years and not a party to the within action. My business address is 680 SOUTH SANTA FE AVENUE, Los Angeles, CA 90021.

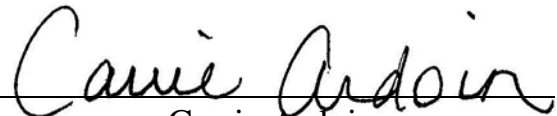
On April 22, 2013, I caused to be served the foregoing:

**PLAINTIFFS' RESPONSE TO THIS COURT'S ORDER TO SHOW
CAUSE AS TO WHY SEVEN DEFENDANTS SHOULD NOT BE
DISMISSED WITHOUT PREJUDICE;
DECLARATION OF STEPHEN T. BLACKBURN IN SUPPORT OF
PLAINTIFFS' RESPONSE TO THIS COURT'S ORDER TO SHOW
CAUSE AS TO WHY SEVEN DEFENDANTS SHOULD NOT BE
DISMISSED WITHOUT PREJUDICE;**

By electronically serving the documents described above via the United States District Court Electronic Case Filing website (CM/ECF notification system) to all counsel of record and to those registered to receive a Notice of Electronic Filing for this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Los Angeles, California.

DATE: April 22, 2013


Carrie Ardoin

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE